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Attorneys for Plaintiff
NUTRITION DISTRIBUTION LLC

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

NUTRITION DISTRIBUTION LLC,
an Arizona Limited Liability
Company,

Plaintiff,

vs.

GEO PEPTIDES, LLC, a Florida
Limited Liability Company,
CHRISTOPHER GRUSKIN, an
individual dba PROGEN PETIDES,
CNR INDUSTRIES, LLC, a Florida
Limited Liability Company; GP
RESEARCH, LLC, and DOES 1
through 50, inclusive,

Defendants.

CASE NO. '16CV1962 MMARBB

**COMPLAINT FOR FALSE
ADVERTISING IN VIOLATION OF
THE LANHAM ACT § 42 (a)(1)(B)**

DEMAND FOR A JURY TRIAL

1 Plaintiff Nutrition Distribution, LLC, dba Athletic Xtreme (“ND” or “Plaintiff”),
2 by and through its undersigned attorneys, submits this Complaint against defendants Geo
3 Peptides, LLC (“Geo”), Christopher Gruskin (“Gruskin”), CNR Industries (“CNR”) and
4 GP Research, Inc. (“GP”)(collectively, the “Defendants”), and in support thereof, avers
5 as follows:

6 **INTRODUCTION**

7 1. This is a civil action arising out of Defendants’ false and misleading
8 advertising in connection with their various purported “research peptides” and “research
9 chemicals,” including but not limited to, ALT-711, Anastrozole, Avanafil, Clomiphene,
10 Dapoxetine, Dutasteride, Exemestane, Finasteride, GW-501516, Ketotifen, Letrozole,
11 LGD-4033, MK-2866, MK-677, Pramipexole, Raloxifene, S4, T3, T4, Tamoxifen,
12 Toremifene, CJC-1295, AICAR, BPC-157, GHRP-2, GNRH, Hexarelin, Ipamorelin,
13 Melanotan, MGF, PEG-MGF, Phospho DSIP, PT-141, and Sermorelin (collectively, the
14 “Research Peptides”).

15 2. Peptides, like Defendants’ Research Peptides, are chemical compounds
16 containing two or more amino acids linked by the carboxyl group of one amino acid and
17 the amino group of another. As a matter of law, peptides cannot be dispensed for human
18 use without a prescription from a licensed medical practitioner due to their toxicity and
19 potential for harmful effect.

20 3. Despite the foregoing, there is an illegitimate market for peptides among
21 bodybuilders, competitive athletes, and others seeking to enhance their physiques and
22 physical performance, since users believe that these substances will enhance muscle
23 development, among other potential physical and health benefits.

24 4. Defendants are part of a growing epidemic of unlawful Internet
25 “pharmacies” that advertise and sell various peptides and other illicit and misbranded
26 drugs to consumers, without informing them of the known health and safety risks and
27 adverse side effects of these products.
28

7. Thus, Defendants have falsely marketed, advertised, and sold their products as “Research Peptides,” while turning a blind eye to their actual use by consumers, who are uninformed of their known health and safety risks.

9. Defendants' false, misleading, illegal and deceptive practices have unjustly enriched Defendants at the expense of Plaintiff, and have caused Plaintiff extensive and irreparable harm, including, but not limited to, loss of revenue, disparagement, and loss of goodwill.

10. This Court has subject matter jurisdiction over this action pursuant to 15 U.S.C. § 1121 and 28 U.S.C. § 1331 (federal question jurisdiction) and 28 U.S.C. 1332 (diversity jurisdiction) because Plaintiff asserts causes of action arising under federal law and the parties are citizens of different states and the controversy exceeds the value of \$75,000.

11. This Court has personal jurisdiction over Defendants because they have, directly or through their intermediaries (including distributors, retailers, and others), developed, licensed, manufactured, shipped, distributed, offered for sale, sold, and advertised their nutritional supplement products in the United States, the State of Arizona, and this district, including but not limited to, the Research Peptides. Defendants have purposefully and voluntarily placed these products into the stream of commerce with the expectation that they will be purchased in this district.

12. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions which gave rise to the claim occurred in this district. *See Rowpar Pharm., Inc. v. Lornamead, Inc.*, 2013 WL 5530825 (D. Ariz. Oct. 7, 2013) (finding venue in Arizona proper). Alternatively, venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(3).

PARTIES

13. Plaintiff Nutrition Distribution, LLC, dba Athletic Xtreme (“ND” or “Plaintiff”) is an Arizona limited liability company with its principal place of business at 14215 N. 8th Place, Phoenix, Arizona, 85022.

14. Defendant Geo Peptides, LLC (“Geo”) is a Florida limited liability company that lists 2655 Ulmerton Road, 119, Clearwater, Florida, 33762 as its principal business address.

15. Defendant GP Research, LLC, dba Progen Peptides is a business in Florida that lists 2655 Ulmerton Road, 119, Clearwater, Florida, 33762 as its business address.

16. Defendant Christopher Gruskin is an individual who lists 4905 34th St. N. #255 St. Petersburg, FL 33711 as his address. Upon information and belief, defendant Gruskin owns, operates, and manages both Geo and Progen.

17. Plaintiff is ignorant of the true names and capacities of defendants sued herein as Does 1- 10, inclusive, and therefore sued these defendants by such fictitious names. Plaintiff will amend this Complaint to allege their true names and capacities when ascertained. Plaintiff is informed and believes and thereon alleges that each of

1 these fictitiously named defendants is responsible in some manner for the occurrences
 2 herein alleged, and that Plaintiff's injuries as herein alleged were proximately caused by
 3 the aforementioned defendants.

4 **FACTUAL ALLEGATIONS**

5 18. The nutritional supplement industry is one of the fastest growing and most
 6 lucrative in the United States. A recent Forbes article estimates that nutritional
 7 supplement sales accounted for \$32 billion in revenue in 2012 and predicts this number
 8 to grow to \$60 billion within ten years. The growth and size of the nutritional
 9 supplement market and the relatively low barriers to entry provide perverse incentives for
 10 unfair competition prohibited by the Lanham Act and other illegal activity.

11 **Plaintiff Nutrition Distribution & "Mass FX Black"**

12 19. Plaintiff is a cutting edge sports supplement manufacturer and marketer.
 13 From its inception, Plaintiff was a leader in the nutritional supplement market,
 14 specifically for bodybuilding.

15 20. Plaintiff has several categories of bodybuilding products, including pre-
 16 workouts, muscle-gainers, fat burners, and male performance enhancement.

17 21. Around 2011, Plaintiff began developing a new product in the muscle-gainer
 18 sub-market of the nutritional supplement world.

19 22. After devoting its resources for over a year on product development and
 20 testing, Plaintiff introduced "Mass FX Black" in April 2013.

21 23. In addition to "Mass FX Black," Plaintiff has introduced numerous natural
 22 nutritional supplements that directly compete with Defendants' "Research Peptides,"
 23 including but not limited to, "Advanced PCT," "Ultra Reps," "Stacked BCAA,"
 24 "SuperSize," "Gym Juice," and "German Creatine."

25 **Defendants And Their Purported "Research Peptides"**

26 24. Defendants Geo and Progen are competing supplement companies in
 27 Florida. Defendant Gruskin owns, operates, and manages both Geo and Progen.

1 25. Defendants are engaged in false and misleading advertising with respect to
2 their various purported “Research Peptides.” As evidenced by Defendants’
3 representations on their respective websites and their product labeling, these “Research
4 Peptides” are unlawfully marketed and misbranded as “for research/laboratory use only”
5 and “NOT for human use and can be harmful if ingested,” among other representations.

6 26. Contrary to these “disclaimers,” Defendants’ advertisements claim that their
7 “Research Peptides” will provide numerous purported benefits to consumers seeking to
8 enhance their physiques and physical performance, including but not limited to,
9 increasing the production of human growth hormone, promoting muscle gain and
10 strength, promoting weight loss, reversing aging, increasing lean body mass, and
11 reducing body fat.

12 27. Moreover, Defendants clearly market and advertise their “Research
13 Peptides” to consumers for personal use and consumption (and not “for
14 research/laboratory use only”). In this regard, Defendants specifically target consumers
15 who are seeking to alter the structure and function of their bodies, such as bodybuilders,
16 competitive athletes, and fitness enthusiasts.

17 28. For example, Defendants have posted advertisements on various
18 bodybuilding forums, including “www.eroids.com” and “www.thinksteroids.com,”
19 which contain discount codes for users accompanied by images of bodybuilders and/or
20 fitness models striking poses clearly intended to demonstrate the physical benefits of
21 Defendants’ products.

22 29. Progen has also posted advertisements on its Twitter account containing
23 discount codes associated with professional athletes such as “NFL,” “Kickoff” and
24 “MarchMadness.”

25 30. Furthermore, Defendants frequently solicit users of bodybuilding forums to
26 post reviews of their “Research Peptides.” These reviews demonstrate that consumers
27 are actually using the “Research Peptides” for their personal use and consumption (and
28 not “for research/laboratory use only”).

1 31. By way of example only, one consumer posted the following review of
2 Geo's products on the bodybuilding forum "www.eroids.com": "Amazing quality, my
3 endurance went though the roof. This stuff makes my cardio intense and keeps me
4 pumped throughout the workout. I feel like I can run for miles and not get tired. I lost a
5 few pounds of fat while maintaining muscle mass. This stuff is awesome!"

6 32. Another user posted the following review on the same forum, which further
7 demonstrates that consumers are actually using the Research Peptides for their personal
8 use and consumption:

9 "I had indications of patellar tendonitis and could no longer
10 train legs with heavy weights in fact not even light weights.
11 Body weight squats were somehow tolerable to some extent.
12 Started blend and BPC157 regularly with more protein, fibre
13 rich diet, omegas and all kinds of supplements. With in couple
14 of weeks it noticed considerable changes. Especially fast
15 recovery from training. I was able to squat again with light
16 weights in 3 weeks and gradually increased weights. Wounds
17 were healing much faster. It had strong effects on endurance as
18 well. The GHRP6 in the blend had me hungry like a beast.
19 Deep REM sleep patterns. Improved skin and dense nail
20 growth."

21 33. Thus, Defendants have falsely marketed, advertised, and sold their products
22 as "Research Peptides," while turning a blind eye to their actual use by consumers, who
23 are uninformed of their known health and safety risks.

24 34. Defendants' "disclaimers" that their products are "for research/laboratory
25 use only" and "NOT for human use and can be harmful if ingested" are patently false and
26 misleading. It is clear from the type of marketing employed by Defendants, the
27 chemicals sold on Defendants' websites, and the lack of specification as to the type of
28 "research" consumers of these products would be conducting, that, in reality, the

1 aforementioned false and misleading statements are a pretense to elude the authorities
2 and to avoid scrutiny.

3 35. Defendants' false and misleading advertising is harmful to the marketplace
4 for dietary and natural nutritional supplements, including Plaintiff's products, and
5 potentially to individual consumers. Defendants have created an illegitimate marketplace
6 of bodybuilders who will gain muscle "at all costs," but who are not informed of the
7 dangers of Defendants' products. Indeed, users of Defendants' "Research Peptides" have
8 little incentive to use Plaintiff's natural nutritional supplements until they are hurt or the
9 "Research Peptides" are taken off the market.

10 **CLAIMS FOR RELIEF**

11 **FIRST CLAIM FOR RELIEF**

12 **(False Advertising in Violation of Section 43(a)(1)(B) of the Lanham Act)**

13 36. Plaintiff incorporates the allegations contained in the foregoing paragraphs
14 as though fully set forth herein in their entirety.

15 37. Defendants have purposely made false and misleading descriptions of fact
16 concerning the nature, characteristics and qualities of the products they promote and sell
17 on their websites, including their various "Research Peptides." As evidenced by
18 Defendants' representations on their websites and product labeling, these "Research
19 Peptides" are unlawfully marketed and misbranded as "for research/laboratory use only"
20 and "NOT for human use and can be harmful if ingested," among other representations.

21 38. Contrary to these "disclaimers," Defendants' advertisements claim that their
22 "Research Peptides" will provide numerous purported benefits to consumers seeking to
23 enhance their physiques and physical performance, including but not limited to,
24 increasing the production of human growth hormone, promoting muscle gain and
25 strength, promoting weight loss, reversing aging, increasing lean body mass, and
26 reducing body fat.

27 39. Moreover, Defendants clearly market and advertise their "Research
28 Peptides" to consumers for personal use and consumption (and not "for

research/laboratory use only”). Indeed, Defendants specifically target consumers who are seeking to alter the structure and function of their bodies, such as bodybuilders, competitive athletes, and fitness enthusiasts.

40. For example, Defendants have posted advertisements on various bodybuilding forums, including “www.eroids.com” and “www.thinksteroids.com,” which contain discount codes for users accompanied by images of bodybuilders and/or fitness models striking poses clearly intended to demonstrate the physical benefits of Defendants’ products.

41. Progen has also posted advertisements on its Twitter account containing discount codes associated with professional athletes such as “NFL,” “Kickoff” and “MarchMadness.”

42. Furthermore, Defendants frequently solicit users of bodybuilding forums to post reviews of their “Research Peptides.” These reviews demonstrate that consumers are actually using the “Research Peptides” for their personal use and consumption (and not “for research/laboratory use only”).

43. For example, one consumer posted the following review of Geo’s products on the bodybuilding forum “www.eroids.com”: “Amazing quality, my endurance went though the roof. This stuff makes my cardio intense and keeps me pumped throughout the workout. I feel like I can run for miles and not get tired. I lost a few pounds of fat while maintaining muscle mass. This stuff is awesome!”

44. Another user posted the following review on the same forum, which further demonstrates that consumers are actually using the Research Peptides for their personal use and consumption:

“I had indications of patellar tendonitis and could no longer train legs with heavy weights in fact not even light weights. Body weight squats were somehow tolerable to some extent. Started blend and BPC157 regularly with more protein, fibre rich diet, omegas and all kinds of supplements. With in couple

1 of weeks it noticed considerable changes. Especially fast
2 recovery from training. I was able to squat again with light
3 weights in 3 weeks and gradually increased weights. Wounds
4 were healing much faster. It had strong effects on endurance as
5 well. The GHRP6 in the blend had me hungry like a beast.
6 Deep REM sleep patterns. Improved skin and dense nail
7 growth.”

8 45. Thus, Defendants have falsely marketed, advertised, and sold their products
9 as “Research Peptides,” while turning a blind eye to their actual use by consumers, who
10 are uninformed of their known health and safety risks.

11 46. Defendants’ “disclaimers” that their products are “for research/laboratory
12 use only” and “NOT for human use and can be harmful if ingested” are patently false and
13 misleading. It is clear from the type of marketing employed by Defendants, the
14 chemicals sold on Defendants’ websites, and the lack of specification as to the type of
15 “research” consumers of these products would be conducting, that, in reality, the
16 aforementioned false and misleading statements are a pretense to elude the authorities
17 and to avoid scrutiny.

18 47. Defendants’ use of falsely marketed substances has the tendency to deceive
19 a substantial segment of the public and consumers, including those in Arizona, into
20 believing that they are purchasing a product with different characteristics.

21 48. The deception is material because it is likely to influence a consumer’s
22 purchasing decision, especially if the consumer is unaware of the serious health and
23 safety risks of using these purported “Research Peptides,” and/or steroids or illegal
24 substances.

25 49. Defendants have introduced their false and misleading statements into
26 interstate commerce via marketing and advertising on various websites and shipment of
27 their products into interstate commerce containing false and misleading advertising.
28

50. Defendants' "Research Products" directly compete with Plaintiff's products, including but not limited to, its bodybuilding supplement "Mass FX," as well as its various other natural nutritional supplements, "Advanced PCT," "Ultra Reps," "Stacked BCAA," "SuperSize," "Gym Juice," and "German Creatine."

51. Plaintiff has suffered both an ascertainable economic loss of money and reputational injury by the diversion of business from Plaintiff to Defendants and the loss of goodwill in Plaintiff's products. Indeed, Defendants' conduct is a black eye on the industry as a whole, and has the tendency to disparage Plaintiff's products and goodwill.

52. Defendants' actions, as described above, constitute false and misleading descriptions and misrepresentations of fact in commerce that, in commercial advertising and promotion, misrepresent the nature, characteristics, and qualities of their products in violation of Section 43(a)(1)(B) of the Lanham Act.

PRAYER

Wherefore, Plaintiff Nutrition Distribution LLC prays for judgment against Defendants Geo Peptides, LLC, Progen Peptides, and Christopher Gruskin as follows:

1. For preliminary and permanent injunctive relief enjoining Defendants from producing, licensing, marketing, and selling its various purported "Research Peptides," and enjoining Defendants from selling any products on the websites "www.geopeptides.com" and "www.progenpeptide.com";
2. For an award of compensatory damages to be proven at trial in accordance with 15 U.S.C. § 1117;
3. For an award of any and all of Defendants' profits arising from the foregoing acts in accordance with 15 U.S.C. § 1117 and other applicable laws;
4. For restitution of Defendants' ill-gotten gains;
5. For treble damages in accordance with 15 U.S.C. § 1117;
6. For punitive damages;
7. For costs and attorneys' fees; and

1 8. Any other relief the Court may deem appropriate.
2

3 DATED: August 4, 2016

TAULER SMITH LLP

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8 By: /s/ Robert Tauler
9 Robert Tauler
10 NUTRITION DISTRIBUTION LLC
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury.

DATED: August 4, 2016

TAULER SMITH LLP

By: /s/ Robert Tauler
Robert Tauler
NUTRITION DISTRIBUTION LLC